In the Senate of the United States,

Resolved, That the bill from the House of Representatives (H.R. 5901) entitled "An Act to amend the Internal Revenue Code of 1986 to exempt certain stock of real estate investment trusts from the tax on foreign investment in United States real property interests, and for other purposes.", do pass with the following

AMENDMENTS:

Strike all after the enacting clause and insert the following:

1 **SECTION 1. AUTHORITY OF TAX COURT TO APPOINT EM-**

2 **PLOYEES.**

3 *(a) IN GENERAL.—Subsection (a) of section 7471 of*

4 *the Internal Revenue Code of 1986 (relating to employees)*

5 *is amended to read as follows:*

6 *"(a) APPOINTMENT AND COMPENSATION.—*

7 *"(1) CLERK.—The Tax Court may appoint a*

8 *clerk without regard to the provisions of title 5,*

9 *United States Code, governing appointments in the*

1 *competitive service. The clerk shall serve at the pleas-*

2 *ure of the Tax Court.*

3   *"(2) JUDGE-APPOINTED EMPLOYEES.—*

4   *"(A) IN GENERAL.—The judges and special*

5   *trial judges of the Tax Court may appoint em-*

6   *ployees, in such numbers as the Tax Court may*

7   *approve, without regard to the provisions of title*

8   *5, United States Code, governing appointments*

9   *in the competitive service. Any such employee*

10   *shall serve at the pleasure of the appointing*

11   *judge.*

12   *"(B) EXEMPTION FROM FEDERAL LEAVE*

13   *PROVISIONS.—A law clerk appointed under this*

14   *subsection shall be exempt from the provisions of*

15   *subchapter I of chapter 63 of title 5, United*

16   *States Code. Any unused sick leave or annual*

17   *leave standing to the law clerk's credit as of the*

18   *effective date of this subsection shall remain*

19   *credited to the law clerk and shall be available*

20   *to the law clerk upon separation from the Fed-*

21   *eral Government.*

22   *"(3) OTHER EMPLOYEES.—The Tax Court may*

23 *appoint necessary employees without regard to the*

24 *provisions of title 5, United States Code, governing*

1 appointments in the competitive service. Such em-

2 ployees shall be subject to removal by the Tax Court.

3 "(4) PAY.—The Tax Court may fix and adjust

4 the compensation for the clerk and other employees of

5 the Tax Court without regard to the provisions of

6 chapter 51, subchapter III of chapter 53, or section

7 5373 of title 5, United States Code. To the maximum

8 extent feasible, the Tax Court shall compensate em-

9 ployees at rates consistent with those for employees

10 holding comparable positions in courts established

11 under Article III of the Constitution of the United

12 States.

13 "(5) PROGRAMS.—The Tax Court may establish

14 programs for employee evaluations, incentive awards,

15 flexible work schedules, premium pay, and resolution

16 of employee grievances.

17 "(6) DISCRIMINATION PROHIBITED.—The Tax

18 Court shall—

19 "(A) prohibit discrimination on the basis of

20 race, color, religion, age, sex, national origin, po-

21 litical affiliation, marital status, or handi-

22 capping condition; and

23 "(B) promulgate procedures for resolving

24 complaints of discrimination by employees and

25 applicants for employment.

1 *"(7) EXPERTS AND CONSULTANTS.—The Tax*
2 *Court may procure the services of experts and consult-*
3 *ants under section 3109 of title 5, United States Code.*
4 *"(8) RIGHTS TO CERTAIN APPEALS RESERVED.—*
5 *Notwithstanding any other provision of law, an indi-*
6 *vidual who is an employee of the Tax Court on the*
7 *day before the effective date of this subsection and*
8 *who, as of that day, was entitled to—*
9 *"(A) appeal a reduction in grade or re-*
10 *moval to the Merit Systems Protection Board*
11 *under chapter 43 of title 5, United States Code,*
12 *"(B) appeal an adverse action to the Merit*
13 *Systems Protection Board under chapter 75 of*
14 *title 5, United States Code,*
15 *"(C) appeal a prohibited personnel practice*
16 *described under section 2302(b) of title 5, United*
17 *States Code, to the Merit Systems Protection*
18 *Board under chapter 77 of that title,*
19 *"(D) make an allegation of a prohibited*
20 *personnel practice described under section*
21 *2302(b) of title 5, United States Code, with the*
22 *Office of Special Counsel under chapter 12 of*
23 *that title for action in accordance with that*
24 *chapter, or*

1   "(E) file an appeal with the Equal Employ-

2   ment Opportunity Commission under part 1614

3   of title 29 of the Code of Federal Regulations,

4   shall continue to be entitled to file such appeal or

5   make such an allegation so long as the individual re-

6   mains an employee of the Tax Court.

7   "(9) COMPETITIVE STATUS.—Notwithstanding

8   any other provision of law, any employee of the Tax

9   Court who has completed at least 1 year of continuous

10   service under a non-temporary appointment with the

11   Tax Court acquires a competitive status for appoint-

12   ment to any position in the competitive service for

13   which the employee possesses the required qualifica-

14   tions.

15   "(10) MERIT SYSTEM PRINCIPLES, PROHIBITED

16   PERSONNEL PRACTICES, AND PREFERENCE ELIGI-

17   BLES.—Any personnel management system of the Tax

18   Court shall—

19   "(A) include the principles set forth in sec-

20   tion 2301(b) of title 5, United States Code;

21   "(B) prohibit personnel practices prohibited

22   under section 2302(b) of title 5, United States

23   Code; and

24   "(C) in the case of any individual who

25   would be a preference eligible in the executive

1   *branch, provide preference for that individual in*

2   *a manner and to an extent consistent with pref-*

3   *erence accorded to preference eligibles in the exec-*

4   *utive branch.''.*

5   *(b) EFFECTIVE DATE.—The amendments made by this*

6 *section shall take effect on the date the United States Tax*

7 *Court adopts a personnel management system after the date*

8 *of the enactment of this Act.*

Amend the title so as to read: ''An Act to amend the Internal Revenue Code of 1986 to authorize the tax court to appoint employees.''.

Attest:

Secretary.

111TH CONGRESS
2D SESSION

H.R. 5901

AMENDMENTS